

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**ISO New England Inc.**

)

**Docket No. ER08-538-000**

**MOTION FOR LEAVE TO INTERVENE OUT-OF-TIME  
OF  
THE MAINE PUBLIC UTILITIES COMMISSION**

The Maine Public Utilities Commission (“MPUC”), by and through counsel, Lisa Fink, State of Maine Public Utilities Commission, 242 State Street, 18 State House Station, Augusta, Maine 04333-0018, and Lisa S. Gast, Duncan, Weinberg, Genzer & Pembroke, P.C., 1615 M Street, NW, Suite 800, Washington, DC 20036, respectfully files this Motion for Leave to Intervene Out-of-Time in the above-captioned proceeding regarding the February 5, 2008 filing of changes to Day-Ahead Load Response Program by ISO New England Inc. (“ISO-NE”). In support thereof, the MPUC states as follows:

**I. PRELIMINARY STATEMENT**

This Motion for Leave to Intervene Out-of-Time is filed pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. §§ 385.212 and 385.214 (2007).

The persons to whom correspondence, pleadings, and other papers in relation to this proceeding should be addressed and the persons whose names are to be placed on the Commission’s official service list are designated as follows pursuant to Rule 203, 18 C.F.R. § 385.203 (2007):

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## **II. MOTION FOR LEAVE TO INTERVENE OUT-OF-TIME**

Under Maine law, the MPUC is the state commission designated by statute with jurisdiction over rates and service of electric utilities in the state. *See* 35-A M.R.S.A. § 101 *et seq.* It is, therefore, a “state commission” under the Commission’s regulations, 18 C.F.R. § 1.101(k) (2007). Accordingly, the MPUC is generally permitted to give notice of its intervention pursuant to Rule 214(a)(2), 18 C.F.R. § 385.214(a)(2) (2007) and respectfully request that the Commission recognize the MPUC as an intervenor in this proceeding, with all rights attendant thereto.

In this instance, however, the MPUC did not provide notice of its intention to intervene within the time limitations provided by the Commission’s February 13, 2008 Combined Notices of Filing, and, therefore, the MPUC is requesting leave to intervene out-of-time in the instant proceeding.

The MPUC respectfully submits that good cause exists to grant this request to intervene out-of-time so that the interests of the MPUC may be represented in this proceeding. This intervention is being submitted out of time because the MPUC became

aware that its interests are implicated by the filing after the date set for parties to intervene. The MPUC has direct and vital interests in the matters addressed in this proceeding that will not be adequately represented by any other party. Finally, no party will be prejudiced by the MPUC's participation because no substantive orders have issued in this case. Accordingly, the MPUC's participation in this proceeding is necessary and appropriate to the administration of the FPA, and it will be in the public interest.

### **III. BACKGROUND**

On February 5, 2008, ISO-NE tendered for filing a proposed revision to Section III.E.2.2 of Market Rule 1 that is intended to adjust the minimum price the Day-Ahead Load Response Program offers from the current level, established in 2002, to an indexed figure that ISO-NE believes appropriately reflects current fuel prices. ISO-NE states that the revision is necessary to prevent Day-Ahead Load Response Program participants from exaggerating their load reductions ("phantom load") from their demand response assets. ISO-NE says the phantom load reduction has become a problem due to the combination of the fixed minimum offer level and the substantial increases in fuels costs. The proposed revision is intended to eliminate the overstated load reduction and the resulting increased energy and capacity payments for non-existing load reductions.

Additionally, ISO-NE states the phantom load reduction creates the illusion that a larger amount of demand response is available for interruption than what actually exists. The discrepancy between actual and available demand response could result in the under-procurement of other capacity resources to ensure long-term adequacy.

ISO-NE has requested waiver of the 60-day prior notice for an effective date of February 7, 2008, for the February 8, 2008 operating day.

**IV. CONCLUSION**

For the reasons stated hereinabove, the MPUC respectfully requests that the Commission accept its Motion for Leave to Intervene Out-of-Time.

Dated: February 19, 2008

Respectfully submitted,

/s/ Lisa S. Gast

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the service list compiled by the Secretary in this proceeding either by U.S. Mail or electronic service, as appropriate. Dated at Washington, D.C., this 19th day of February, 2008.

/s/ Harry A. Dupre  
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